



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201511041

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEC 17 2014

Uniform Issue List: 412.00-00

T. EP. R. ATZ

Legend:

Company =

Plan =

Dear ,

This letter is in response to your request, dated June 24, 2014, submitted on your behalf by your authorized representative, in which the Company requests a private letter ruling that the adoption of a Plan amendment which will provide a temporary lump-sum distribution option during a specified window period for designated former Plan participants with vested benefits who are not yet receiving benefit payments will not be treated as an increase in the Plan's liabilities by reason of an increase in Plan benefits for purposes of section 412(c)(7)(A) of the Internal Revenue Code (the "Code"). Alternatively, if the amendment is determined to be such an increase, the Company requests a ruling that it is reasonable and provides only a de minimis increase in the liabilities of the Plan pursuant to section 412(c)(7)(B)(i).

The lump-sum option will only be available to former participants with a deferred vested benefit. Participants who have already begun receiving benefits will not be offered the lump-sum option. Beneficiaries of plan death benefits and specified deferred vested participants for whom a deferred annuity contract was previously purchased by the Plan will also not be offered the lump sum option. The proposed amendment does not result in an increase in benefits since the lump-sum payments must be the actuarial equivalent to the annuity options available under the Plan as required by section 415(b)(2)(B) of the Code.

A waiver for the minimum funding standard for the Plan was granted in October, 2011 and is currently still in effect. Under the provisions of section 412(c)(7)(A) of the Code, there are restrictions on amendments resulting in an increase in the Plan's liabilities by reason of an increase in Plan benefits while a minimum funding waiver is in effect. One condition of the Company's waiver of the minimum funding standard is that it may not amend the plan to increase benefits and/or plan liabilities except in accordance with section 412(c)(7)(B) of the Code. Accordingly, the Company seeks a ruling that its Plan amendment will not violate the conditions of its waiver of the minimum funding standard.

APPLICABLE LAW

Section 412(c)(7) provides:

Restriction on plan amendments

(A) In general. No amendment of a plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become non-forfeitable under the plan shall be adopted if a waiver under this subsection or an extension of time under section 431(d) is in effect with respect to the plan, or if a plan amendment described in subsection (d)(2) which reduces the accrued benefit of any participant has been made at any time in the preceding 12 months (24 months in the case of a multiemployer plan). If a plan is amended in violation of the preceding sentence, any such waiver, or extension of time, shall not apply to any plan year ending on or after the date on which such amendment is adopted.

(B) Exception. Subparagraph (A) shall not apply to any plan amendment which—

- (i) the Secretary determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan,
- (ii) only repeals an amendment described in subsection (d)(2), or
- (iii) is required as a condition of qualification under part I of subchapter D, of chapter 1.

ANALYSIS

The Plan amendment affects only former Plan participants with vested benefits who are not yet receiving benefits. The amendment does not increase their benefits, change benefit accruals, or change the rate at which benefits become nonforfeitable under the Plan. The amendment only affects the manner in which benefits are paid to participants with deferred vested benefits. The lump-sum form of benefit payout is the

actuarial equivalent to the participant's accrued benefit under the Plan, and consequently not an increase in the liabilities of the plan.

RULING

Therefore, the adoption of the proposed Plan amendment will not violate the provisions of section 412(c)(7)(A) of the Code as the Plan amendment does not increase benefits, change benefit accruals or the rate at which benefits become nonforfeitable.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling please contact ***** . Please address all correspondence to SE:T:EP:RA:T2.

Sincerely,



William B. Hulteng, Manager
Employee Plans Technical

Enclosures:

Deleted copy of letter ruling
Notice of Intention to Disclose

cc: